

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 113 - HB 199

March 16, 2021

SUMMARY OF ORIGINAL BILL: Requires municipalities to abate the storm water user fees assessed to property owners who construct holding or retention ponds on their property in an amount equal to the cost of construction of such ponds.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease Local Revenue – Exceeds \$5,000,000/FY21-22 and Subsequent Years

Other Fiscal Impact – Local governments may increase storm water user fees charged to other customers to compensate, fully or partially, for recurring, mandatory, decreases in local revenue. The proposed language may result in mandatory increases in local government expenditures to maintain current operations, the extent and timing of which cannot reasonably be determined. *

SUMMARY OF AMENDMENT (004699): Deletes and rewrites language of the original bill such that the substantive change limits applicability to 501(c)(3) tax exempt nonprofit organizations.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Decrease Local Revenue – Exceeds \$40,000/FY21-22 and Subsequent Years

Other Fiscal Impact – Local governments may increase storm water user fees charged to other customers to compensate for recurring, mandatory decreases in local revenue. The extent of any rate increases cannot be determined.

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 68-221-1103 and § 68-221-1107:
 - Municipalities are authorized to construct necessary storm water facilities or flood control improvements;
 - Assess a graduated storm water user fee for each user of the storm water facility;
 - Fees are based on the user's estimated proportionate contribution to the total storm water runoff; and

- Fees are used to pay the user's proportionate share in the construction, administration, operation, and maintenance of the facilities.
- The proposed language:
 - Requires property owners which are 501(c)(3) nonprofit organizations who install holding or retention ponds to provide notice of the cost of construction to the municipality, as soon as applicable, upon completion of the construction; and
 - After receiving the notice, the municipality is required to abate fees in an amount equal to the amount paid by the property owner for the construction of the ponds.
- It is unknown if the proposed legislation will apply to holding and retention ponds constructed prior to the effective date of this act, if such property owner can provide notice of the cost of construction.
- This analysis assumes:
 - The cost of construction for such ponds will vary based on size and type of pond constructed; however, the cost of any pond is estimated to be at least \$10,000;
 - The proposed language will apply to retention and holding ponds constructed prior to the effective date of this act;
 - There are at least 4,000 nonprofit organizations operating within the state;
 - At least one percent, or 40 (4,000 x 1.0%) will establish holding or retention ponds on their property statewide; and
 - Municipalities will increase fees charged to other commercial and residential properties to compensate for the mandatory decrease in revenue experienced from the abatement of fees to certain properties.
- The proposed language is estimated to result in a mandatory recurring decrease in local revenue exceeding \$400,000 (\$10,000 per pond x 40 entities creating ponds).
- Fees charged to such customers will be abated over time to property owners through an abatement of fees which otherwise would have been charged monthly. Fees charged to individuals installing such ponds are not known.
- It is reasonably estimated that of the \$400,000, at least 10 percent, or \$40,000 (\$400,000 x 10.0%), will be abated in fees each year by municipalities statewide beginning in FY21-22 and occurring in subsequent years.
- It is reasonably assumed that municipalities will increase user fees charged to other property owners to compensate for the recurring decrease in revenue, the extent of such increases cannot be determined.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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